

REMARKS

Further to the response filed February 10, 2004, we respectfully submit that Ito et al. (U.S. Patent No. 6,445,409) is not prior art to the claimed invention. Applicant submits herewith the Declaration of Ray Broemmelsiek factually demonstrating that the claimed invention was invented by him in this country prior to the effective filing date of the Ito reference.

The Ito reference issued from an application filed on July 28, 1999. This Ito application was a continuation-in-part of an earlier application filed on May 14, 1998. The earlier Ito application subsequently issued as U.S. Patent No. 6,404,455. A comparison of the two Ito patents demonstrates that the subject matter in the Ito reference relied upon by the Examiner is not entitled to the benefit of the filing date of the earlier Ito application. Consequently, the effective filing date of the Ito reference cited by the Examiner is July 28, 1999.

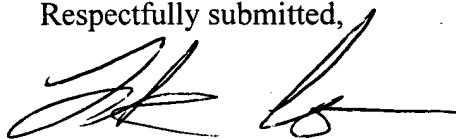
As factually demonstrated by Mr. Broemmelsiek's Declaration, he conceived of the claimed invention and took diligent action in reducing the claimed invention to practice from at least as early as August 1998.

We respectfully submit that Mr. Broemmelsiek's Declaration meet the requirements of 37 C.F.R. §131 and establishes a date of invention in this country prior to the effective filing date of the Ito reference. Accordingly, we respectfully request that the rejection under 35 U.S.C. §102(e) be withdrawn.

For the reasons set forth above, we respectfully submit that the solicited claims are in proper condition for allowance, which action is respectfully requested.

Respectfully submitted,

03/10/04
Date


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